

**FILED**

**JUN 27 2014**

Clerk, U.S. District Court  
District Of Montana  
Missoula

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

**JARED ROSLING,**

**Petitioner,**

**vs.**

**LEROY KIRKEGARD; ATTORNEY  
GENERAL OF THE STATE OF  
MONTANA,**

**Respondents.**

**Cause No. CV 12-161-M-DLC**

**ORDER DENYING MOTION TO  
REOPEN TIME TO APPEAL**

On February 21, 2014, this Court entered its final order and judgment denying Petitioner Rosling's application for writ of habeas corpus under 28 U.S.C. § 2254. Rosling is a state prisoner proceeding pro se.

On June 13, 2014, the Court received from Rosling a motion "to reopen appeal" under Fed. R. Civ. P. 60(b) on the grounds that there was an error "with respect to receiving the Court's Order of 2/21/2014." Mot. to Reopen (Doc. 29) at

1. On June 16, 2014, based on Fed. R. App. P. 4(a)(6), Rosling was required to state when he received the Order of February 21, 2014. Order to Pet'r (Doc. 30) at
  1. Rosling responded on June 24, 2014, that he received it on April 21, 2014. Resp. to Order (Doc. 31) at 1.

Provided other criteria are also met, Fed. R. App. P. 4(a)(6)(B) authorizes a district court to reopen the time to appeal if moved to do so “within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice” of the entry of the order, “whichever is earlier.” Rosling states that he received the Order of February 21, 2014, on April 21, 2014. He did not move the Court to reopen the time to appeal until June 13, 2014,<sup>1</sup> well over 14 days after he received the Order.

Accordingly, IT IS HEREBY ORDERED that Rosling’s motion to reopen the time to appeal (Doc. 29) is DENIED.

DATED this 27<sup>th</sup> day of June, 2014.



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Dana L. Christensen, Chief Judge  
United States District Court

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<sup>1</sup> Rosling signed the certificate of service on June 7, 2013, but the certificate does not state that Rosling deposited the motion in the prison mail system for delivery to the clerk of court. The prison mailbox rule, *Houston v. Lack*, 487 U.S. 266, 270-71 (1988), does not apply. Even if it did, however, Rosling’s motion to reopen the time to appeal would be untimely.